

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CABELA'S INC.,

No. C 11-1398 CW

Plaintiff,

v.

KELORA SYSTEMS, LLC,

Defendant.

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KELORA SYSTEMS, LLC,

No. C 11-1548 CW

Plaintiff,

v.

TARGET CORPORATION; OFFICEMAX  
INCORPORATED; ROCKLER COMPANIES,  
INC.; 1-800-FLOWERS.COM, INC.;  
AMAZON.COM, INC.; DELL, INC.;  
OFFICE DEPOT, INC.; NEWEGG INC.;  
COSTCO WHOLESALE CORPORATION;  
HEWLETT-PACKARD COMPANY;  
CIRCUITCITY.COM INC; AUDIBLE,  
INC.; and ZAPPOS.COM, INC.,

Defendants.

OFFICEMAX INCORPORATED,

Third-Party Plaintiff,

v.

ADOBE SYSTEMS INCORPORATED,

Third-Party Defendant.

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NEBRASKA FURNITURE MART, INC.,

Plaintiff,

v.

KELORA SYSTEMS, LLC,

Defendant.

No. C 11-2284 CW

ORDER GRANTING IN PART, AND DENYING IN PART, AMENDED ADMINISTRATIVE MOTION OF KELORA SYSTEMS, LLC TO FILE UNDER SEAL THE DECLARATION OF SHAWN G. HANSEN AND EXHIBITS A THROUGH E (Docket No. 393)

AND ALL RELATED COUNTERCLAIMS

On October 21, 2011, Kelora Systems, LLC filed an amended administrative motion seeking an order sealing the Declaration of Shawn G. Hansen, submitted in support of Kelora Systems, LLC's Opposition to Defendants' Claim Construction Brief and Motion for Summary Judgment of Invalidity and Non-Infringement, and Exhibits A through E attached to the declaration. In support of its motion, Kelora Systems, LLC offered a declaration stating that various other parties and non-parties to this action had designated the exhibits to be confidential or may consider them to be so. Hansen Decl. ¶¶ 4-8, 11.

On October 28, 2011, Nebraska Furniture Mart, a party to this action who had designated Exhibits A and E as confidential, filed a declaration stating that it was withdrawing its designation of confidentiality as to Exhibit A, that it had designated Exhibit E as confidential at the request of Endeca Technologies, Inc. (Endeca), a non-party to this action, and that it believed that Endeca would separately file a declaration to support the sealing

1 of Exhibit E. Song Decl. ¶¶ 3-5. On the same date, Endeca filed  
2 a declaration providing reasons supporting the sealing of Exhibit  
3 E. Merhar Decl. ¶¶ 5-7. On that date, Cabela's Inc. and Newegg  
4 Inc., parties to this action, also filed declarations providing  
5 reasons supporting the sealing of Exhibits B through D. Balduaf  
6 Decl. ¶¶ 3-5; Akbar Decl. ¶¶ 3-6.

7 Kelora Systems, LLC's filings are connected to a dispositive  
8 motion. Because other parties designated the documents at issue  
9 as confidential, they must file a declaration establishing that  
10 the documents are sealable. Civ. L.R. 79-5(d). To do so, they  
11 "must overcome a strong presumption of access by showing that  
12 'compelling reasons supported by specific factual findings . . .  
13 outweigh the general history of access and the public policies  
14 favoring disclosure.'" Pintos v. Pac. Creditors Ass'n, 605 F.3d  
15 665, 679 (9th Cir. 2010) (citation omitted). This cannot be  
16 established simply by showing that the document is subject to a  
17 protective order or by stating in general terms that the material  
18 is considered to be confidential, but rather must be supported by  
19 a sworn declaration demonstrating with particularity the need to  
20 file each document under seal. Civ. Local R. 79-5(a).

21 No party or non-party has filed a declaration establishing  
22 that the Declaration of Shawn G. Hansen or Exhibit A thereto is  
23 sealable. Accordingly, Kelora System, LLC's motion is DENIED to  
24 the extent that it pertains to the Hansen Declaration and  
25 Exhibit A.

26 Cabela's Inc., Newegg Inc. and Endeca Technologies, Inc.,  
27 however, have provided reasons supporting the sealing of the  
28 Exhibits B through E of the Hansen Declaration, which Kelora

1 System, LLC filed along with its opposition to Defendants' claim  
2 construction brief and motion for summary judgment. Accordingly,  
3 Kelora Systems, LLC's motion for leave to file documents under  
4 seal is GRANTED to the extent it pertains to the Exhibits B  
5 through E.

6 Within four days of the date of this Order, Kelora Systems,  
7 LLC may electronically file the Hansen Declaration and Exhibit A  
8 in the public record, or may withdraw them, and may file Exhibits  
9 B through E under seal, in accordance with General Order 62. Civ.  
10 L.R. 79-5(e).

11 IT IS SO ORDERED.

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13 Dated: 11/2/2011

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15 CLAUDIA WILKEN  
16 United States District Judge  
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